IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NOs.5357, 5475, 5497, 5498 and 5499 of 2005

(1)WRIT PETITION NO.5357 of 2005

Between:

M/s. Maharshi Commerce Limited, Formerly Known as Poddar Projects Limited, Nacharam, Hyderabad Rep. by its Manager-Finance Mr. V.C. Jain.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.
2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of mandamus or any other appropriate writ or order or direction setting aside the order of the 4th Respondent in CCT's Ref.LII(3) /1847/2004 dated 16.12.2004 and consequently restrain the 1st and 2nd Respondents from taking any coercive steps for recovery of balance disputed tax of Rs.36,770/- for the

assessment year 1987-88 pending dispose of the appeal before the 3rd Respondent.

Counsel for the Petitioner: MR.K.SUNEEL BABU

Counsel for the Respondents: GP FOR COMMERCIAL TAX

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(2)WRIT PETITION NO.5475 of 2005

Between:

M/s. Maharshi Commerce Limited, Formely known as Poddar Projects Limited, Nacharam, Hyderabad, rep by its Manager-Finance, Mr. V.C. Jain.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.
2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ a Certiorari or any other appropriate writ or order or direction quashing the order of the 4th Respondent in CCT's Ref.No. LIII(3)/1847/2004 dated 16.12.2004 as arbitrary, unreasonable and unjustified and consequently restrain the 1st Respondent from taking any coercive steps for collection of the balance disputed tax of Rs.15,68,905/- for the assessment year 1997-98 pending disposal of the Petitioner's appeal T.A.No.616/2003 before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: Spl.GP FOR COMMERCIAL TAXES

(3)WRIT PETITION NO.5497 of 2005

Between:

M/s.Poddar Projects Limited, presently known as Maharshi Commerce Limited, Nacharam, Hyderabad, rep.by its Manager-Finance, Mr.V.C.Jain.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.
2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st respondent in taking coercive steps to recover the disputed tax during pendency of stay petition before the 3rd Respondent as arbitrary and unjustified and consequently restrain the 1st and 2nd respondents from taking any coercive steps for collection of disputed tax of Rs.70,064/- for the assessment year 1989-90 pending disposal of the appeal before the 3rd Respondent.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: Spl.GP FOR COMMERCIAL TAXES

(4)WRIT PETITION NO.5498 of 2005

Between:

M/s.Maharshi Commerce limited, formerly known as Poddar Projects Limited, Nacharam, Hyderabad, rep., by its Manager-Finance Mr.V.C.Jain.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.
2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.
4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, or order or direction declaring the action of the 1st respondent in taking coercive steps to recover the disputed tax during pendency of stay petition before the 3rd respondent as arbitrary and unjustified and consequently restrain the 1st and 2nd respondents from taking any coercive steps for collection of balance disputed tax of Rs.91,203/- for the assessment year 1991-92 pursuant to his order dated 29.03.2004 pending disposal of the appeal before the 3rd respondent.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: Spl.GP FOR COMMERCIAL TAXES

(5)WRIT PETITION NO.5499 of 2005

Between:

M/s. Maharshi Commerce Limited, formerly known as Poddar Projects Limited, Nacharam, Hyderabad Rep. by its Manager-Finance, Mr. V.C.Jain.

...PETITIONER

AND

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.
2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.
3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.

4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 1st Respondent in taking coercive steps to recover the disputed tax during pendency of stay petition before the 4th Respondent as arbitrary and unjustified and consequently restrain the 1st and 2nd Respondents from taking any coercive steps for collection of disputed tax of Rs.12,17,227/- for the assessment year 1999-2000 pending disposal of the appeal before the 3rd Respondent.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondents: Spl.GP FOR COMMERCIAL TAXES

The Court made the following:

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NOs.5357, 5475, 5497, 5498 and 5499 of 2005

COMMON ORDER: (Per the Hon'ble Mr.Justice T.Ch.Surya Rao)

Since the petitioner is same in all the Writ Petitions and recovery proceedings have been initiated against him by means of a distraint order pertaining to the assessment years 1987-88, 1989-90, 1991-92, 1993-94, 1996-97, 1997-98 and

1999-2000, all the Writ Petitions can be disposed of together.

The petitioner has been assessed to the tax for the years herein above mentioned and for his default in paying the tax for the above assessment years, recovery proceedings have been initiated under the provisions of the Revenue Recovery Act by issuing a distraint notice mentioning, *inter alia*, the relevant assessment years and the arrears due, followed by Form V, notice of attachment.

The learned counsel for the petitioner represents that the auction for the sale of the properties attached is scheduled on 21.03.2005. The petitioner is represented to have deposited more than 80% of the demand in respect of one of the assessment years and that he is prepared to pay the whole amount in respect of some other assessment years and requests this Court to consider the passing of stay by means of usual order of directing him to pay 50% of the disputed tax in respect where of the appeals are pending before the Appellate Deputy Commissioner (CT) and the Sales Tax Tribunal. To avoid any confusion and inasmuch as common notice attaching the properties was issued in respect of the assessment years referred to supra, we propose to dispose of all the Writ Petitions by passing the following order:

The total demand raised in respect of all these years is Rs.40,60,809/- (Rupees forty lakh sixty thousand eight hundred and nine only). The property attached is sought to be sold for realizing the said amount. In view there of, the petitioner is directed to deposit 50% thereof i.e., Rs.20,30,405/- (Rupees twenty lakh thirty thousand four hundred and five only) in which event there shall be stay of sale of the property pursuant to the auction notice issued as stated herein above. Out of the said amount, he shall deposit half of it on or before 31.03.2005 and the

remaining half shall be deposited by him on or before 30.04.2005. On such deposit of the first instalment on 31.03.2005, the stay operates in respect of collection of the balance. The authorities, before whom the appeals are pending, shall dispose of the appeals in accordance with law as early as possible.

With the above observations, all the five Writ Petitions are disposed of. No order as to costs.

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(M.H.S.ANSARI,J)

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(T.CH.SURYA RAO ,J)

17th March 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Deputy Commercial Tax Officer, Nacharam Circle, Hyderabad.

2. The Commercial Tax Officer, Nacharam Circle, Hyderabad.

3. The Appellate Deputy Commissioner (CT), Hyderabad Rural Division, Hyderabad.

4. The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

5. Two CCs to G.P. for Commercial Taxes, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.